
From: John Branch
Sent: Wednesday, January 4, 2023 12:15 PM
To: Behre, Kirby; Townsend, Jonathon; Jones, Christopher; Herbert, Ian; O'Toole, Timothy; Rand, Ripley; cmarden@milchev.com
Cc: Jeff Kelly; Nate Pencook; Sam Rosenthal; Matt Gorga; Brandon Neuman
Subject: Azima v. Del Rosso - Deposition Dates for Mr. del Rosso and Vital Management Services

Kirby,

In light of our call last week, Defendants discussed committing to a hard date for Nick's deposition in order to address Plaintiff's concerns about the potential delay of his deposition. Defendants are willing to commit to posting Mr. del Rosso for his deposition on March 10, 2023, so long as he does not suffer an unexpected material negative change in his health that would adversely impact his ability provide full and truthful testimony. To be clear, per his physician, our belief is that Mr. del Rosso's health should continue to improve between now and March 10, 2023 in a way that would better enable him to provide full and truthful testimony; however, even if his condition does not improve from where it is today, he is agreeing to be deposed on March 10, 2023 so long as his condition does not materially get worse in a way that would adversely impact his ability to provide full and truthful testimony. As discussed earlier, we do not anticipate his health deteriorating in this manner. March 10, 2023 is also well-within the discovery period of this case, so Plaintiff would not be prejudiced in accommodating Mr. del Ross's health issues in delaying his deposition to then.

This same proposal applies for the Rule 30(b)(6) deposition of Vital management Services, although if Plaintiff seeks a different date for that deposition Defendants are willing to commit to a mutually-agreeable date within two weeks of March 10th for it.

In the event that Plaintiff agrees to this proposal, Plaintiff would need to withdraw the current Notices of Deposition of Mr. del Rosso and Vital Management Services, and re-issue notices for March 10, 2023 for Mr. del Rosso and, if necessary, a date to be agreed upon for Vital Management Services. We would then file a notice with the Court that the parties have resolved the issue regarding the timing of the depositions.

Defendants reserve the right to ask for accommodations for length, location, etc. for the March 10th deposition pending on Mr. del Rosso's health status at that time. That being said, the primary concern raised by Plaintiff in regard to Mr. del Rosso's deposition is ensuring Mr. del Rosso actually gets deposed as opposed to having no commitment on a date, and this proposal should alleviate that concern.

Please note that our proposal of these dates is subject to, and without waiving, our previous objections related to the depositions unrelated to the dates on which Plaintiff is seeking to schedule them.

Given that our Reply Brief is due shortly, please let us know by close of business today, January 4, 2023, if this is acceptable.

Best regards,

John Branch



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